

REMARKS/ARGUMENTS

Applicants have received and carefully reviewed the Office Action mailed August 13, 2009. This paper is being filed along with a Request for Continued Examination. Currently, claims 1-3, 5-16, 19, and 20 are pending and have been rejected. The Office Action Summary indicates that the Office Action is both Final and non-final. The Detailed Action indicates that the Office Action is Final. With this amendment, claims 1, 10, and 16 have been amended, supported by the second to last paragraph of page 13 of the specification and Figure 10. Favorable consideration of the above amendments and the following remarks is respectfully requested.

Claim Rejections – 35 USC § 103

Claims 1-3, 5-16, 19, and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Strecker (U.S. Patent No. 6,416,522) in view of Hlavka et al. (U.S. Publication No. 2004/0172046) and Moss (U.S. Patent No. 5,085,661). After careful review, Applicants must respectfully traverse this rejection, particularly in view of the current amendments.

“All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). (MPEP 2143.03).

Applicants note that the Office Action has acknowledged that Strecker does not disclose each and every element of independent claims 1, 10, and 16. Hlavka et al. and Moss are introduced to provide the missing elements. Without conceding the correctness of the rejection, Applicants have amended claims 1, 10, and 16 to include additional limitations. None of the cited references, alone or in combination, appear to disclose the limitations added with this amendment. Specifically, none of the references appear to disclose or suggest “the implantable device comprises a vascular graft having a periphery, the vascular graft forming a plurality of folds when loaded about the plurality of delivery members in the longitudinal delivery position; wherein each delivery member cooperates with one of the folds such that the folds ensure that the delivery members

engage the vascular graft at points equally spaced about the periphery of the vascular graft when the delivery members are in the radially expanded deployment position”.

Accordingly, the cited combination of Strecker, Hlavka et al., and Moss does not appear to disclose or suggest each and every element of independent claims 1, 10, and 16, as is required to establish a *prima facie* rejection. Therefore, claims 1, 10, and 16 are believed to be patentable over the cited references. Since claims 2, 3, 5-9, 17, 19, and 20 depend therefrom and add additional elements thereto, Applicants believe that these claims are also patentable over the cited references. Withdrawal of the rejection is respectfully requested.

Claims 10-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Strecker in view of Miller (WO 02/17797), Hlavka et al., and Moss. After careful review, Applicants must respectfully traverse this rejection.

As discussed above, independent claim 10 is believed to be patentable over the cited combination of Strecker, Hlavka et al., and Moss. Miller does not appear to remedy the shortcomings of Strecker, Hlavka et al., and Moss. Notably, Miller does not appear to disclose or suggest the implantable device comprises a vascular graft having a periphery, the vascular graft forming a plurality of folds when loaded about the plurality of delivery members in the longitudinal delivery position; wherein each delivery member cooperates with one of the folds such that the folds ensure that the delivery members engage the vascular graft at points equally spaced about the periphery of the vascular graft when the delivery members are in the radially expanded deployment position.

Accordingly, claim 10 is believed to be patentable over the cited references. Since claims 11-15 depend therefrom and add additional elements thereto, Applicants believe that these claims are also patentable over the cited references. Withdrawal of the rejection is respectfully requested.

Conclusion

In view of the foregoing, all pending claims are believed to be in condition for allowance. Further examination, reconsideration, and withdrawal of the rejections are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

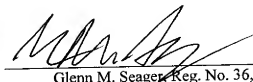
Respectfully submitted,

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By their Attorney,

Date:

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